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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,284	08/21/2003	Jimmy A. Parks	2370.ACT1.NP	7245
7590	10/06/2004		EXAMINER	
Randall B. Bateman, P.C. 10 West 100 South, Suite 425 P. O. Box 1319 Salt Lake City, UT 84110			CHAMBERS, TROY	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/645,284	PARKS ET AL.	
	Examiner	Art Unit	
	Troy Chambers	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 4,6 and 18-21 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5 and 7-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 4, 6 and 18-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 09/20/04.
2. Applicant's election with traverse of 4, 6 and 18-21 in the reply filed on 09/20/04 is acknowledged. The traversal is on the ground(s) that the apparatus and method claims are closely related that it would conserve resources if all claims were considered at once. This is not found persuasive because being "closely related" is not the standard used in restriction practice. Instead, the claims must be independent and distinct and restrictable as per the Restriction Requirement.

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the valve (claims 7 and 8) and must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 3, 5, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0399960A2 issued to Salabe.

7. With respect to claims 1 and 13, Salabe discloses a projectile retrieval system, comprising: a plurality of projectile deceleration areas (see Figs. 1 and 2, wherein each area is defined by bullet loaded granulated material 1 located in the vicinity of a helical screw 2 and is linearly disposed as shown in Fig. 1); a transport housing 4 in communication with the granulated material; and, a screw drive 2 for carrying the bullet loaded material 1 to a remote location.

8. With respect to claim 2, Salabe discloses a container 7 disposed in communication with the transport mechanism and for receiving projectiles therefrom (col. 3, ll. 54-57).

9. With respect to claim 3, Salabe discloses a motor 3 for rotating the screw 2.

10. With respect to claim 5, Salabe discloses a helical screw 2. The helical screw possesses a central axis and at least one fin (the thread) that extend helically for the length of the screw (See Fig. 1).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 5, 11, 12, 13, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 5535662 issued to Bateman in view of US 2003/0177895 issued to Lambert.

13. With respect to claims 1, 11, 12, 13, 14 and 17, Bateman discloses a projectile retrieval system 10, comprising a plurality (col. 7, ll. 38-40) projectile deceleration areas 16; and, a transport mechanism comprising an airtight (col. 7, ll. 8-21) housing 54 including a vacuum system 60, 62, 64. However, Bateman does not disclose a transport mechanism including a screw and the details thereof.

With respect to claims 1, 5 and 13 Lambert discloses a transport mechanism disposed in communication with a projectile deceleration area comprising an elongate screw 244 configured to carry projectiles from the deceleration area to a remote location [0090]. With respect to claim 5, screws inherently posses a central axis and have a thread (fin) that extends helically for the length of the screw in a first direction.

At the time of the invention, one of ordinary skill in the art would have found it obvious to provide the transport housing 54 of Bateman with the transport screw of Lambert. The suggestion/motivation for doing so would have been to allow the bullets to be removed by a means other than manually (Lambert, [0090]).

14. Claims 7, 8, 9, 10, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bateman and Lambert as applied to claims 1 and 13 above, and further in view of U.S. 6311980 issued to Sovine. Bateman and Lambert disclose a combined projectile retrieval system as described above. However, neither Bateman

nor Lambert discloses a valving system (claims 7-10) or a control member (claims 15, 16) as claimed by the applicant.

Sovine discloses such a valving system/control member. Specifically, Sovine discloses a bullet retrieval system 100, comprising at least one valve 114 having a first closed position and a second open position (col. 6, ll. 1-10) and a remote control valve actuator 128 (col. 6, ll. 50-58) operated by computer (col. 7, ll. 28-30) or by an automatic detection sensor (col. 7, ll. 59-67). The valve 114 (or control member) acts to prevent the bullets from entering the transport mechanism until prompted to do so (col. 6, ll. 3-7).

At the time of the invention, one of ordinary skill in the art would have found it obvious to provide the combined invention of Bateman and Lambert with the automated valving system of Sovine. The suggestion/motivation for doing so would have been to allow an operator to selectively empty one of the projectile deceleration areas 16 of Bateman (Sovine, col. 3, ll. 39-43).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited on form PTO-892 are cited as of interest to show similar projectile retrieval systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (703) 308-5870. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (703) 306-4198.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

A handwritten signature in black ink, appearing to read "John".